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 Federal Communications Commission
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Federal Communications Commission
 Office of the Secretary

July 20, 2007

In Re: Upcoming NCE Filing Window

My understanding, in speaking with many of my engineering colleagues around the country, is that the upcoming non-commercial educational FM filing window is still being discussed at the Commission, and that the final rules are still under consideration. I am sure that the Commission and staff are well aware of the problems caused by just a few entities during the translator window in March of 2003. It would be a serious error not to recognize that this was likely not the best way to bring public input into the process of allowing use of this limited spectrum. Many sincere applications were filed, only to be blocked by hundreds (if not thousands) of applications filed by a few speculators, hoping to cash in on the lack of available frequencies. Sadly, the public was not as well served by this process because of abuse of the system by individuals and organizations who decided to take the process and turn it into a contest of numbers. It would be a tragedy and a disservice to the public to see this happen again.

I. A METHOD TO ESTABLISH FAIRNESS IN THE FILING PROCESS

Based upon the experiences of the 2003 translator window, I would strongly encourage the Commission to consider limiting the number of applications from any single entity. I have personal knowledge of at least two national organizations who

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intend to find and apply for every single available channel in some regions, thereby increasing their chances of obtaining at least one or more channels by doing so. In some rural areas, I know at least 5 or 6 channels are being planned as possible applications by the same applicant, and many of these applications will be knowingly mutually exclusive with each other. While the point system would eventually lead to a sorting out of the applications, the burden of work for the Commission staff could take years to sort out, frustrating both applicants and listeners who have little or no service presently. This abuse of the system would run counter to the goals of the window, and present an undue burden on the Commission staff, and also on legitimate applications by local groups and organizations who hope to provide service in the near future to their respective communities. Certainly there is precedent for a limitation of this kind, as numerical limitations were imposed without a rulemaking during the 1992 and 1994 LPTV filing periods. While I leave it to the Commission's good judgment on what actual numerical limitation might be fair, given the few number of channels available in any given location, as well as the 20 channels reserved for non-commercial use, it would appear prudent to limit the number of applications by any one entity to 10 or less. For a local or regional applicant, this would not present an undue burden or limitation, and would tend to limit the number of applications filed by national groups with little or no intent of providing a locally-based educational programming service, and provide a better opportunity for local groups with limited resources to take part in the process.

II. CONCLUSION

The Commission staff is to be commended for working hard these past 8 years on resolving the backlog of mutually-exclusive applications filed up until the freeze in the late 1990's. I am sure that with enough safeguards built into the upcoming filing window,

the delays all applicants experienced this past decade can be avoided, and a good working model for any future windows can be established. I submit these suggestions as a single consulting engineer who works for a variety of non-commercial groups and licensees, and not as a representative of any of these entities. I appreciate the Commission's willingness to allow the non-commercial radio service in the United States to grow and better serve audiences who either have little or no choices of non-commercial broadcasting efforts.

Respectfully submitted this 20th day of July, 2007

A handwritten signature in black ink, appearing to read 'D. Mussell Jr.', with a stylized, cursive flourish at the end.

Donald E. Mussell Jr. NCE-CBT
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